

MINUTES OF THE MEETING  
OF THE CITY COUNCIL OF THE  
CITY OF BURLINGTON  
March 20, 2007  
9:00 A.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on March 20, 2007, at 9:00 a.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

MINUTES

Mayor Ross called for approval of the City Council work session minutes of March 5, 2007, and of the March 6, 2007, City Council meeting and closed session.

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to approve the above listed minutes.

ADD ON: Consent Agenda: Budget Amendment 2007-30 - CDBG  
Reallocation of Funds

ADOPTION OF AGENDA

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to adopt the agenda with the add-on.

CONSENT AGENDA:

1. (A) To temporarily close the following streets during the Alamance Region Antique Car Club on Saturday, May 19, 2007, from 7:00 a.m. until 4:00 p.m.:

- ❖ Front Street between Spring and Worth Streets
- ❖ One block of Main Street from Front Street to Davis Street
- ❖ City Parking Lot #2 adjacent to the Depot
- ❖ City Parking Lot behind Occasions Restaurant between Lexington Avenue and Spring Street.

(B) To adopt a resolution setting a date of public hearing for April 3, 2007, 7:30 p.m., to confirm an assessment roll for water improvements on Rockwood Avenue from West Front Street to the dead end. (Under Public Interest Authority)

07-02

PRELIMINARY RESOLUTION CONFIRMING ASSESSMENT ROLL FOR THE FOLLOWING IMPROVEMENTS:

WATER ASSESSMENT ROLL

ROCKWOOD AVENUE From West Front Street to Dead End

WHEREAS, the City Council of the City of Burlington has heretofore adopted final resolutions ordering the making on the street named above the improvements hereinabove described and as set forth particularly in said resolutions; and,

WHEREAS, said improvements have now been completed and the City Council has ascertained the total cost thereof and the amount that should be assessed against such lots abutting on said improvements on account of said improvements and has caused to be prepared a general plan map of said improvements on which is shown the frontage and location of each lot on the streets improved, together with the owners thereof, as far as the same can be ascertained, said plan map being marked:

Water Assessment Roll

ROCKWOOD AVENUE From West Front Street to Dead End

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON:

- Sec. 1. That the total cost of said improvements is hereby determined to be the amount shown therefore on said general plan maps.
- Sec. 2. That pursuant to the provisions of the North Carolina General Statutes 160A-216 et seq., City Charter Sections 6.61 et seq. and particularly Section 6.67 of said Charter and the procedure therein established, said project was directed to be undertaken.
- Sec.3. That said general plan maps, as described above, be and the same are hereby adopted as the preliminary assessment roll for said improvements.
- Sec.4. That said preliminary assessment rolls be and the same are hereby ordered filed in the office of the City Clerk for inspection by interested parties.
- Sec.5. That April 3, 2007, at 7:30 p.m. in the Council Chamber, Municipal Building, Burlington, North Carolina, be and the same is hereby fixed as the time and place when and where the City Council will hear objections to special assessments shown on said assessment roll.
- Sec.6. Said assessment may be paid in five equal annual installments, which installments shall bear interest at the rate of eight percent per annum from the date of the confirmation of the assessment rolls.
- Sec.7. That this notice be published one time in the Times-News, a newspaper published in the City of Burlington, not less than ten (10) days before the confirming of the assessment roll:

Petition No. 514  
Dwg. No. 3928-04

WATER ASSESSMENT ROLL

6-inch water main

ROCKWOOD AVENUE

From West Front Street to Dead End

Lot Size\*

Fee

Less than or equal to 2 acres - \$1,000.00 per acre

Greater than 2 acres - \$ 500.00 per acre

\*Lot size calculations shall be rounded to the nearest tenth of an acre

<u>PROPERTY OWNER</u>	<u>TAX MAP</u>	<u>AMOUNT</u>	<u>BALANCE DUE</u>
<u>WEST SIDE</u>			
<u>West Front Street</u>			
James Leon Porter & Ellen T.	12-21-124	\$ --0--	\$ --0--
James Leon Porter & Ellen T.	12-21-124-B	1,000.00	1,000.00
Richard L. Procter & Jean H.	12-21-124-A	1,000.00	1,000.00
Donald J. Moriarty & Shirley D.	12-21-125	1,000.00	1,000.00
April A. Auman	12-21-127	1,000.00	1,000.00
 <u>Hawthorne Lane</u>			
Margaret F. Young	12-21-142	1,000.00	1,000.00
Lloyd L. Manning & Christina S.	12-21-143-A	1,000.00pd	--0--
William C. Powell & Jacqueline	12-21-143-C	1,000.00	1,000.00
James Allen South & Margaret M.	12-21-143	1,000.00	1,000.00
William C. Powell	12-21-143-D	1,000.00	1,000.00
Dead End			
Sub-total West Side		9,000.00	8,000.00
 <u>EAST SIDE</u>			
<u>West Front Street</u>			
Harold Wayne Amick	12-21-144	1,000.00	1,000.00
		(Assessed for remainder of lot)	
Joseph L. Blackwell, Jr. & Margaret	12-21-145	1,000.00	1,000.00
Gregory A. Sebastian & Anne F.	12-21-146	1,000.00	1,000.00
Robert D. Allison & Ann G., Trust	12-21-143-B	--0--	--0--
		(Existing Water Tap)	
 <u>Hawthorne Lane</u>			
John C. Easter & Mary P.	12-21-136-A	--0--	--0--
		(Existing Water Tap)	
James Leon Porter & Ellen T.	12-21-136-D	--0--	--0--
		(Existing Water Tap)	
James Leon Porter & Ellen T.	12-21-136-C	1,000.00	1,000.00
David L. Cockrell & Tammy M.	12-21-136-F	1,000.00	1,000.00
William P. Snell and Janice T.	12-21-265	1,000.00	1,000.00
William C. Powell	12-21-136-E	1,000.00	1,000.00
William C. Powell	12-21-136	1,000.00	1,000.00
Dead End			
Sub-total East Side		\$ 8,000.00	\$ 8,000.00
Total		\$ 17,000.00	\$15,000.00

PAYMENT OPTIONS:

- Full payment due thirty (30) days from date of confirmation (no interest charges).
- Five (5) annual installments paid with interest accruing at eight (8%) percent per year.

(C) To adopt a resolution setting a date of public hearing for April 3, 2007, 7:30 p.m., to consider the Windsor Apartments, Waterfalls Townhomes, Burlington Station Retail Center, St. Mark's Church and the Glenn's Apartments contiguous voluntary annexation petitions.

07-03

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and,

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Municipal Building at 7:30 PM on April 3, 2007.

Section 2. The area proposed for annexation is described as follows:

THE WINDSOR APARTMENTS ANNEXATION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by Michael Taylor, bounded on the east by PGS Burlington LLC, bounded on the south by Mackintosh LLC & Cox Associates, LLC and bounded on the west by the eastern right-of-way line of Rural Retreat Road and Jessie Roberts and being more particularly described as follows:

BEGINNING at a point located in the eastern right-of-way line of Rural Retreat Road, said point being the northwest corner of the herein described Windsor Burlington, LLC property, etc. and adjoining the property of Michael A. Taylor, (Alamance County Pin 88444451878); thence with the lands of Michael A. Taylor, North 69 deg. 36' 00" East a distance of 1,066.01 feet to a point in the line with PGS Burlington LLC/Tower Burlington LLC (Alamance County Pin 8844535878); thence South 00 deg. 21' 04" West along the existing Burlington corporate limit line a distance of 1,593.31 feet to a point (south of Interstate 85/40) in the southern right-of-way line of Danbrook Road; thence along the southern right-of-way of Danbrook Road, South 86 deg. 47' 52" West a distance of 1,340.97 feet to a point in the northwest corner of Mackintosh LLC (Alamance County Pin 8844414949); thence across Danbrook Road North 03 deg. 12' 08" West a distance of 60.00 feet to a point in the line of the southern right-of-way of I-85/40; thence South 86 deg. 47' 52" West a distance of 112.39 feet to a point, said point being the southwest corner of the herein described Windsor Burlington LLC property, etc.; thence North 18 deg. 42' 05" East across Interstate I-85/40 a distance of 333.75 feet to a point in the northern right-of-way of Interstate 85/40, said point also being in the eastern right-of-way of Rural Retreat Road; thence North 21 deg. 07' 18" East along the eastern right-of-way of Rural Retreat Road a distance of 289.73 feet to a point, said point being in the southern property line of the Roberts' property (Alamance County Pin 8844432213); thence along the property lines of the Roberts' property the following courses and distances: North 85 deg. 58' 54" East a distance of 642.29 feet to a point; thence North 5 deg. 29' 03" West a distance of 379.83 feet to a point; thence South 86 deg. 07' 29" West a distance of 453.85 feet to a point in the eastern right-of-way line of Rural Retreat Road; thence North 21 deg. 07' 18" East along the eastern right-of-way of Rural Retreat Road a distance of 283.18 feet to a point, said point being the BEGINNING and including an area to be annexed into the Burlington Corporate Limits of 35.09 Acres or 0.055 Square Miles, and being as shown on Annexation Plat - Windsor Burlington, LLC, as prepared by Murphy Geomatics, Professional Land Surveying, Raleigh, North Carolina.

Section 3. Notice of the public hearing shall be published in The Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of the public hearing.

07-04

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF  
ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the  
contiguous area described herein has been received; and,

WHEREAS, certification by the City Clerk as to the  
sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the  
City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation  
of the area described herein will be held at the Municipal  
Building at 7:30pm on April 3rd, 2007.

Section 2. The area proposed for annexation is described  
as follows:

THE WATERFALLS TOWNHOMES ANNEXATION

A certain tract or parcel of land in Boone Station Township,  
Alamance County, North Carolina, bounded on the north by Vasant  
and Prabha Sejpai and Authur & Peggy Robertson, bounded on the  
east by west right-of-way line of Long Pine Road, bounded on the  
south by David Isley and bounded on the west by property owned  
by WKS Corporation and being more particularly described as  
follows:

Beginning at an existing stone, said stone being in the  
southern line of the Vasant and Prabha Sejpai property (D.B.  
519 PG. 325); thence with the southern line of the Sejpai  
property S 58° 06' 03" W for a distance of 577.59 feet to a  
point, said point being a common corner between the Sejpai  
property and the WKS Corporation property (D.B. 2376 PG. 314);  
thence with the western line of the WKS Corporation property S  
21° 21' 05" E for a distance of 81.03 feet to a point; thence N  
87° 12' 52" E for a distance of 50.14 feet to a point; thence S  
11° 43' 44" W for a distance of 137.62 feet to a point; thence S  
36° 01' 34" E for a distance of 163.36 feet to a point; thence S  
34° 16' 51" W for a distance of 93.01 feet to a point; thence S  
30° 38' 12" E for a distance of 52.68 feet to a point; thence S  
36° 10' 43" W for a distance of 62.93 feet to a point; thence S  
68° 04' 32" E for a distance of 185.61 feet to a point; thence S

04° 06' 45" W for a distance of 88.81 feet to a point; thence S 69° 05' 40" E for a distance of 71.20 feet to a point; thence S 45° 42' 03" W for a distance of 146.64 feet to a point; thence S 37° 12' 40" E for a distance of 217.85 feet to a point, said point being in the Northern line of the Evergreen Construction property (D.B. 2158 PG. 434); thence with the northern line of the Evergreen Construction Company N 54° 21' 50" E for a distance of 173.05 feet to an existing iron pipe; thence from said pipe S 18° 55' 39" E for a distance of 405.29 feet to an existing stone, said stone being set in the eastern line of David and Ann Isley (D.B. 546 PG. 772); thence with the eastern line of the Isley property N 43° 43' 28" E for a distance of 1031.02 feet to an existing iron pipe, said pipe being the south eastern corner of the Clinton Wayne York Jr. property (D.B. 1284 PG. 99); hence with the southern line of the York property N 54° 03' 30" W for a distance of 872.39 feet to an existing angle iron; thence from said iron N 23° 35' 37" for a distance of 47.53 feet to an existing iron pipe; thence from said pipe N 23° 35' 37" W for a distance of 282.77 feet to the point and place of Beginning and containing 22.70 acres more or less.

Section 3. Notice of the public hearing shall be published in The Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of the public hearing.

07-05

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and,

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Municipal Building at 7:30 PM on April 3, 2007.



Section 2. The area proposed for annexation is described as follows:

THE GLENNS APARTMENTS ANNEXATION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by the south right-of-way line of Webb Avenue, bounded on the east by the James Gunn heirs, bounded on the south by the North Carolina Railroad right-of-way and bounded on the west by property owned by Shannon Bradsher and being more particularly described as follows:

BEGINNING at an existing iron stake in the southern right-of-way of Webb Avenue, thence S 07 42' 22" E 273.23' to an existing iron stake in the northern right-of-way of the North Carolina Railroad, thence S 07 42' 22" E, 50.27' to a mathematical point, thence S 81 13' 50" W, 74.50' to a mathematical point, thence S 85 53' 59" W, 74.63' to a mathematical point, thence S 70 18' 16" W, 76.81' to a mathematical point, thence N 07 14' 22" W, 54.31' to an existing iron stake in the northern right-of-way of the North Carolina Railroad, thence N 07 14' 22" W, 287.69' to an existing iron stake, thence N 07 14' 22" W, 15.99' to a mathematical point in the southern right-of-way of Webb Avenue, N 85 15' 00" E, 36.65 to a mathematical point, thence N 86 41' 02" E, 62.26' to a mathematical point, thence N 88 45' 27" E, 51.07' to a mathematical point, thence N 89 31' 15" E, 75.00' to an existing iron stake also being the point of beginning and containing 1.70 acres total as shown on a survey by Carolina Cornerstone Surveying dated 12/05/06, Annexation Plat, Property of the Glenns at Elon, LLC.

Section 3. Notice of the public hearing shall be published in The Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of the public hearing.

07-06

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Municipal Building at 7:30 PM on April 3rd, 2007.

Section 2. The area proposed for annexation is described as follows:

#### BURLINGTON STATION ANNEXATION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by the southern right-of-way lines of Rural Retreat Road and University Drive, bounded on the east by west right-of-way line of University Drive, bounded on the south by PGS Burlington II, LLC, and Larry T. Glosson and bounded on the west by the eastern right-of-way line of Rural Retreat Road and being more particularly described as follows:

Beginning at a corner with PGS Burlington II, LLC, and REES 511, LLC, in the southern right-of-way line of University Drive; thence N 86 38' 38" W 667.67 feet to a corner with REES 511, LLC, and Larry T. Glosson, in the line of PGS Burlington II, LLC; thence N 08 31' 52" E 189.37 feet to a corner with REES 511 LLC and Larry T. Glosson; thence N 67 36' 42" W 66.25 feet to a corner with REES 511 LLC and Larry T. Glosson; thence N 86 06' 47" W 175.48 feet to a corner with REES 511, LLC, and Larry T. Glosson in the eastern right-of-way of Rural Retreat Road; thence N 29 08' 22" E 17.53 feet to a corner in the eastern right-of-way of Rural Retreat Road; thence S 61 24' 29" E 9.93 feet to a corner in the eastern right-of-way of Rural Retreat Road; thence with a curve to the right having a radius of 485.56 feet and a chord bearing and distance of N 38 26' 15" E 165.15 feet to a corner in the eastern right-of-way of Rural Retreat Road and the southern right-of-way of University Drive; thence S 44 59' 38" E 131.60 feet to a corner in the southern right-of-way of University Drive; thence S 40 42' 08" E 696.03 feet to the point and place of BEGINNING containing 6.143 acres (0.0096 square miles).

Section 3. Notice of the public hearing shall be published in The Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of the public hearing.

07-07

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and,

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Municipal Building at 7:30 PM on April 3, 2007.

Section 2. The area proposed for annexation is described as follows:

ST. MARKS ANNEXATION

Certain tracts or parcels of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by the southern right-of-way line of Garden Road, property of Clifton and Ann Underwood, and property of William and Daryl Lyn Bolden, bounded to the east by Pool or Pond Partners, LLC, bounded on the south by Dorothy McDaries, property of William Earl Grant, the northern right-of-way line of Peeler Street, property of Janet Yates, property of Ray and Edith Linens, property of Richard and Linda Jones, property of Della Gentry, property of the City of Burlington, and bounded on the west by M & J Investors and being more particularly described as follows:

Beginning at an iron pipe at the northwest corner of Lot 1, Plat Book 66 Page 215, thence the following courses and distances:

S 34-49-15 W, 149.90 to an EIP  
S 18-44-35 W, 60.84 to an EIP

S 55-16-56 E, 32.50 to an EIP  
S 78-30-30 E, 147.84 to an EIP  
S 55-19-19 E, 15.43 to an EIP  
N 34-43-04 E, 149.97 to an EIP  
S 55-11-56 E, 49.93 to an EIP  
S 34-43-43 W, 330.25 to an EIP  
N 52-35-14 W, 21.63 to an EIP  
N 78-34-47 W, 139.76 to an EIP  
N 78-08-35 W, 20.13 to an EIP  
N 11-29-49 E, 99.87 to an EIP  
N 78-29-36 W, 209.32 to a point  
S 11-40-55 W, 215.89 to an EIP  
S 11-48-08 W, 200.00 to an EIP  
N 78-31-12 W, 150.00 to an EIP  
N 11-44-20 E, 200.17 to an EIP  
N 11-40-23 E, 18.64 to an EIP  
N 67-45-27 W, 398.90 to an EIP  
N 26-03-44 E, 77.60 to a point  
N 63-52-37 W, 319.55 to an EIP  
N 29-33-48 W, 135.35 to an EIP  
N 25-04-58 E, 582.02 to a point  
S 65-27-39 E, 411.68 to an a point  
S 26-05-54 W, 28.76 to an a point  
S 55-46-35 E, 519.29 to an EIP  
S 55-12-30 E, 58.99 to an EIP  
S 55-12-40 E, 159.76 to the point and place of beginning and  
containing 763,047 square feet, 17.52 acres, 0.0273 square  
miles.

Section 3. Notice of the public hearing shall be published in The Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of the public hearing.

- (D) To set a date of public hearing for April 17, 2007, to receive public comments on the 2007-08 Community Development Program Annual Action Plan.
- (E) To authorize the Mayor to sign a Substitution of Trustee document for the City's Deed of Trust on Mary C. Hurdle's property located at 820 Chandler Avenue. The City desires to substitute Mr. Marc O'Neal as its Trustee in place of Spencer B. Ennis on the Deed of Trust for the loan in order to execute a modification agreement to the existing Deed of Trust.

- (F) To approve the 2006-2007 annual audit contract with Stout, Stuart, McGowen & King, L.L.P., and to authorize the Mayor and the Finance Director to execute the contracts.
- (G) To re-approve a final plat of the Waterfalls Subdivision, Phase 2, that was originally approved by City Council on December 5, 2006. The plat was not recorded within the 60-day time limit provided for within the Subdivision Regulations.
- (H) Budget Amendment 2007-28 - South Conference Spring Sports Festival

BA2007-28

Increase Revenues:

010-35204-6230 Sports Festival Fees	\$29,355
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Increase Expenditures:

010-62623-6022 Spring Conference Spring Sports Festival	\$29,355
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- (I) Budget Amendment 2007-29 - Appropriate Donations - Recreation Programs

BA2007-29

Increase Revenues:

010-39398-0004 Appr. Fund Balance-Comm Centers	\$12,693
030-39398-0001 Appr. Fund Balance-Lake Programs	3,375

Increase Expenditures:

010-62623-7400 Equipment	\$ 1,361
010-62624-4500 Contracted Services	400
010-62624-6012 Carousel/Arts Festival	2,100
010-62626-3300 Departmental Supplies	4,173
010-62626-7400 Equipment	1,048
010-62627-3300 Departmental Supplies	1,750
010-62627-7400 Equipment	1,361
010-62634-4500 Contracted Services	500
030-90811-6011 Special Lake Programs	3,375

(J) Budget Amendment 2007-30 - CDBG Reallocation of Funds

BA2007-30

Decrease Expenditures:

554-60101-6841	Church Street Sidewalk	\$10,000
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Increase Expenditures:

554-60101-6831	Glen Raven Project	\$10,000
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Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to approve the foregoing consent agenda.

PUBLIC HEARINGS:

ITEM 2: AMEND ZONING ORDINANCE TEXT

Mayor Ross announced that a public hearing had been scheduled to consider amendments to the Zoning Ordinance text pertaining to building heights in Office-Institutional Districts; building heights, lot setback requirements and landscaping and design plans in Planned Employment Center (PEC) zoning districts; maximum lot coverage requirements in residential districts; off-street parking requirements for child care facilities; Section 32.9, Table of Permitted Uses, change PEC - Planned Employment Center - districts to Conditional Planned Employment Center; and a technical correction in Section 32.22, Definitions.

Planning Director Robert Harkrader stated that the Planning and Zoning Commission recommended the zoning amendments and that staff would expound on the amendments and would answer any questions.

Assistant Planning Director David Beal stated that a majority of the changes were technical corrections and reference upgrades. He stated that the amendment to Section 32.3:A.7 dealt with lot coverage amounts and proposed to increase to 35% lot coverage in both R-30 and R-15 districts, 40% to R-12 and R-9 districts and 45% for R-6. Mr. Beal stated that the City had received more requests for larger one-story houses.

Mr. Beal stated that the change to 32.5:B.4 would be changing the height restriction in the O-I, Office-Institutional District, from two stories or 32 feet to three stories or 45 feet maximum. Mr. Beal stated that the amendment would include a notation regarding the Airport Overlay and Federal Aviation Administration requirements.

Mr. Beal stated that Section 32.11:C. pertained to parking requirements for child-care facilities. The current employee ratio is one and one-half spaces per employee and the proposal was to change that ratio to one space per employee. Mr. Beal stated that the proposal would be to keep the child space ratio one per ten children. Mr. Beal stated that neighboring cities had been surveyed and found that Burlington's requirements are stricter.

Mr. Richard Parker asked about the footprint amendment. He asked that in R-6 districts, could someone raise an old house and rebuild a new house in that subdivision under the new standards and could go from 1800 square feet to 2700 square feet on that lot.

Mr. Harkrader stated that an individual would have to meet all the setbacks.

Mr. Parker asked what were the setbacks.

Mr. Harkrader stated that in residential zoning a 30- to 40-foot setback was required in the front yard and a 10 foot side yard and 25 foot rear yard.

Mr. Parker voiced opposition to the increased square footage.

Councilmember Huffman asked if the increases applied to townhouses, and Mr. Harkrader stated it did not apply to townhouses or areas that are conditionally zoned.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

ORDINANCE TO AMEND CITY OF BURLINGTON ZONING ORDINANCE TEXT PERTAINING TO BUILDING HEIGHTS IN OFFICE-INSTITUTIONAL DISTRICTS; BUILDING HEIGHTS, LOT SETBACK REQUIREMENTS AND LANDSCAPING AND DESIGN PLANS IN PLANNED EMPLOYMENT CENTER (PEC) ZONING DISTRICTS; MAXIMUM LOT COVERAGE IN RESIDENTIAL DISTRICTS; OFF-STREET PARKING REQUIREMENTS FOR CHILD CARE FACILITIES; TECHNICAL CORRECTION TO SECTION 32.22, "DEFINITIONS"; AND AMENDMENTS TO SECTION 32.9, "TABLE OF PERMITTED USES," CHANGING PLANNED EMPLOYMENT CENTER (PEC) ZONING DISTRICTS TO CONDITIONAL PLANNED EMPLOYMENT CENTER (CPEC)

AMEND PAGES 1 AND 2 (32.i) OF THE TABLE OF CONTENTS:

Under 32.5, Office-Institutional District, remove D. (PEC Planned Employment Center Districts)

Under 32.7A, Conditional Zoning Districts, add F, Conditional Planned Employment Center, Page 8.

AMEND SECTION 32.3:A.7:

7. Maximum Lot Coverage: Buildings and accessory buildings within R-30, R-15, R-12, R-9 and R-6 zoning classifications shall observe the following maximum lot coverage requirements:

R-30 and R-15 Residential Districts - 35%

R-12 and R-9 Residential Districts - 40%

R-6 Residential Districts - 45%

Maximum lot coverage requirements shall not apply to townhouse developments or to lots covered by conditional zoning.

AMEND SECTION 32.5:B.4. AS FOLLOWS:

4. Height Limit: No building shall exceed a height of three stories or 45 feet, except the height of a non-residential building may be increased to 60 feet if two side yards of not less than 25 feet wide each are provided. The height



of structures within the district may be subject to Airport Overlay Zoning height restrictions and/or Federal Aviation Administration requirements.

AMEND SECTION 32.5:D.6.b. AS FOLLOWS:

b. Lot setbacks:

- (1) Front setback - A minimum 40-foot setback is required.
- (2) Side and rear yard - Minimum setback of 25 feet is required.

AMEND SECTION 32.5:D.6 BY ADDING A NEW SUBSECTION, e, AS FOLLOWS:

- e. Height Requirements - There shall be no height requirement within PEC zoning districts. However, the height of structures within the district may be subject to Airport Overlay Zoning and Federal Aviation Administration requirements.

AMEND SECTION 32.5:D.10.c. AND e.:

- c. Parking areas adjacent to rights-of-way shall be physically separated by landscaping or other features. A combination of walls, berms and landscape materials is highly recommended. Sidewalks and other pedestrian-oriented amenities may be placed within this landscaping area.
- e. Vehicular parking areas shall be no closer than ten feet to any street right-of-way line. Allowed uses within parking setback areas include bikeways, pedestrian paths and water-quality facilities.

AMEND SECTION 32.5.D. AND SECTION 32.9, TABLE OF PERMITTED USES, AS FOLLOWS:

In Section 32.5.D. change all references to Planned Employment Center (PEC) to Conditional Planned Employment Center.

In Section 32.9, Table of Permitted Uses, change all references to PEC to CPEC.

AMEND SECTION 32.5:D, PLANNED EMPLOYMENT CENTER (PEC) ZONING DISTRICT, AND SECTION 32.7A AS FOLLOWS:

In Section 32.5, transfer the entire Subsection D to Section 32.7A by creating a new Subsection G.

AMEND SECTION 32.9, TABLE OF PERMITTED USES, AS FOLLOWS:

Change the title block within PEC Planned Employment Center Districts to read "Conditional Planned Employment Center."

AMEND SECTION 32.11:C, "OFF-STREET PARKING SPACES," AS FOLLOWS:

Child Care Facility	One space for each employee and staff member. In addition, one space for each 10 children shall be provided for the loading and unloading of children. This area shall not be on the street right-of-way nor shall it in any way obstruct or interfere with traffic circulation in the area of the facility.
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AMEND SECTION 32.22, "DEFINITIONS," AS FOLLOWS:

Townhouse Developments: A townhouse development shall consist of one or more residential structures comprised of two or more attached single-family residences intended for owner occupancy to be developed in accordance with the provisions of Section 32.10:TT. Nothing herein shall be construed to prohibit the construction of one or more detached single-family structures within a townhouse development.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 3: REZONE PROPERTY - DANBROOK ROAD

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from CMX-R, Conditional Mixed Use Residential District, to O-I, Office-Institutional District, the property located on the south side of Danbrook Road and Interstate 85/40 approximately 500 feet north of Bonnar Bridge Parkway as shown on Alamance County Tax Map 3-23-71.

Councilmember Wall asked to be recused from consideration of this item.

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to allow Councilmember Wall to be recused from Item 3.

Mr. Charles Bateman, Bateman, Oertel & Koonts, PLLC, stated that when the Council adopted the amendments to the Land Use Plan, Mackintosh on the Lake made a commitment to the City to rezone the frontage on Danbrook to a use that would be consistent with the proposed changes to the Land Use Plan.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-05

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Danbrook Road)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from CMX-R, Conditional Mixed Use Residential District, to O-I, Office-Institutional District, the property located on the south side of Danbrook Road and Interstate 85/40 approximately 500 feet north of Bonnar Bridge Parkway as shown on Alamance County Tax Map 3-23-71.

Section 2. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 3. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones and Huffman and Starling. Councilmember Wall abstained from voting.

ITEM 4: REZONE PROPERTY - NORTH MAIN STREET

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from R-9, Residential District, to B-2, General Business District, the property located on the north side of North Main Street approximately 600 feet west of the intersection of North Main Street and North Church Street and being as shown on Alamance County Tax Map 51, Block 210, a portion of Lot 137. The remainder of the property is already zoned B-2.

Mr. Boyd Chatman, Dodson & Chatman Construction Inc., representing Kirk's Motor Court and Lisa Kirkpatrick, requested the rezoning.

Councilmember Starling asked if the lot was vacant.

Mr. Harkrader stated that the property was vacant and was in use through a prior conditional rezoning for parking. Mr. Harkrader stated that the rear part of that lot was vacant.

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Ms. Sara Kenny, North Main Street, representing her brothers and herself, stated they owned the adjoining lot and had no reservations concerning the rezoning.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-06

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on North Main Street)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from R-9, Residential District, to B-2, General Business District, the property located on the north side of North Main Street approximately 600 feet west of the intersection of North Main Street and North Church Street and being as shown on Alamance County Tax Map 51, Block 210, a portion of Lot 137.

Section 2. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 3. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Jones, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

NEW BUSINESS:

ITEM 5: NCDOT STREETS TO CITY OF BURLINGTON STREET SYSTEM

Mayor announced that the City Council would consider the adoption of a "Resolution by the City of Burlington Regarding Approval by the North Carolina Department of Transportation for the City of Burlington to Assume Certain Streets for City Maintenance."

Mr. Jim Lauritsen, Development and Technical Services Director, stated that this request involved the Glen Raven area that was recently annexed into the City. He stated that City staff and the North Carolina Department of Transportation staff had recommended that Gilliam Road, the portion inside the corporate limits, Martin Street, Park Road Extension, Melody Lane, Pine Grove Road and Glen Cove Court be subtracted from the State DOT system and added to the City of Burlington system for maintenance. He stated that as a result of this, the City would be eligible for additional Powell Bill Funds to help maintain those streets.

Councilmember Huffman asked Mr. Lauritsen to explain the Powell Bill Funds and how those funds are appropriated.

Mr. Lauritsen stated that the Powell Bill Funds were state funds. He stated that gas tax revenues were appropriated to various municipalities in counties based on population. He stated that the City received an allocation each year for maintaining streets.

Councilmember Huffman asked the condition of the roads.

Mr. Lauritsen stated that the City would be resurfacing some of the streets this fall in order to bring those streets up to date.

Councilmember Huffman moved the adoption of the following resolution:

07-08

RESOLUTION BY THE CITY OF BURLINGTON REGARDING APPROVAL BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE CITY OF BURLINGTON TO ASSUME CERTAIN STREETS FOR CITY MAINTENANCE

WHEREAS, the City desires to assume control over certain streets and be responsible for maintenance of said streets; and,

WHEREAS, the City does hereby request the North Carolina Department of Transportation to authorize the City to assume responsibility for and maintenance of said streets.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON that the City does hereby formally request

that the North Carolina Department of Transportation grant approval to the City of Burlington to assume control over and maintenance of the following streets:

**Proposed Deletions from the State Highway System**

SR #	Name	From	To	Length (Mi.)
1342	Gilliam Road	NC87/100, (Webb Avenue)	SR 1345, (Park Road Extension)	0.79
1343	Martin Street	SR 1342, (Gilliam Road)	SR 1345, (Park Road Extension)	0.15
1345	Park Road Extension	NC 87/100, (Webb Avenue)	SR 1342, (Gilliam Road)	0.99
1414	Melody Lane	West Davis Street (non- system)	SR 1415, (Pine Cove Road)	0.04
1415	Pine Grove Road	SR 1414, (Melody Lane)	End of State Maintenance	0.13
1416	Glen Cove Court	SR 1415, (Pine Grove Road)	End of State Maintenance	0.05

That the City shall assume maintenance and control over the foregoing streets effective July 1, 2007.

The foregoing resolution was seconded by Councilmember Wall, and it was passed unanimously.

**STAFF REPORT:**

**ITEM 6: JORDAN LAKE UPDATE - UTILITIES DIRECTOR STEVE SHOAF**

Mayor Ross announced that Utilities Director Steve Shoaf would give an update on Jordan Lake Nutrient Management Strategy.

Mr. Shoaf stated that the Jordan Lake Rules were moving forward. He stated that on March 8, 2007, the Environmental Management Commission (EMC) voted to begin the rule-making process and that the public comment period would be included in the rule making process and the public comment period would include public hearings. He stated there would be a comment review period following that and then recommendations would be made to the EMC. He explained the EMC would then vote to approve or disapprove the rules, and next the proposed rules would go to the Rules Review Commission to be reviewed for legalities and other issues.

After the Rules Review Commission reviews the rules, they would then be considered by the Legislature around the summer of 2008. Mr. Shoaf stated that there were still some important areas of controversy within the rules such as the point source rules. He said these rules relate to waste water discharge treatment plants and that there would be new nitrogen and phosphorous limits imposed by these rules. He said the City would be required to optimize the treatment plants and report back to the State. Mr. Shoaf stated that one thing to remember is that treatment plant operators hold MPDS federal permits issued through the State and that the State could change the limits whether the rules pass or not. Mr. Shoaf stated that on the point source side, the City would be facing new nitrogen and phosphorous limits without much debate. He stated that he would ask for a guarantee from the State during the public comment period that if the City upgraded the treatment plants, it would have some sort of guarantee for a period of time, 20 or 30 years, that the City's limits would not be changed during that time.

Mr. Shoaf stated that on the non-point source rules that new development is currently seeing some resistance from developers. He stated the Best Management Practices (BMP) for new development and existing development is not designed to remove nutrients which means that a stormwater pond, constructive wet land or grassy swells could be put in and that it would not do a whole lot towards removing nutrients. Mr. Shoaf stated that it would require a lot of cost to the developers and that in the end it still may not achieve the results that the State would require. He stated that the State was ignoring any impact from Phase 2 Stormwater Rules.

Councilmember Wall asked about funding.

Mr. Shoaf stated that in the rules, funding would be available from certain agency grant money. Mr. Shoaf said he had contacted those agencies and was told there would be no grant money available for activities required by a rule or legislation. He stated that he had argued with the State repeatedly to take that paragraph out of the rules because it was just not true. Mr. Shoaf stated that in the latest version it was still there. He stated that some of the EMC members were very concerned about the cost and one of the EMC members spoke up and stated that he thought this would be paid for by the State and everyone else stated that the full cost and burden would rest on local jurisdictions.



Councilmember Wall asked Mr. Shoaf to project a cost.

Mr. Shoaf stated that the point source wastewater side would be somewhere in the range of \$24 to \$48 million and the non-point source side could be more than \$100 million.

City Manager Harold Owen stated that the \$24 to \$48 million would come from the City's water and sewer budget and that the tax base would suffer because the development cost would be so enormous that growth would be limited.

Mr. Owen stated that the City of Burlington had the lowest stormwater fee in the State of North Carolina. He stated that the City charges \$2.00 per customer.

Councilmember Starling asked if all the expense was falling on municipalities.

Mr. Shoaf stated that there was a change in the rules and that those counties that were included were required to implement the stormwater control measures.

Mr. Shoaf elaborated on the importance of the public comment period and the public hearing process. Mr. Shoaf stated it was very important that a number of people speak out and express concern.

Councilmember Starling asked the media to help get the message to the citizens explaining the seriousness of this situation.

#### CITY MANAGER COMMENTS:

Mr. Owen stated that two bills were submitted to the legislature: one was to take all cell tower regulations away from local governments which would mean no municipal zoning for cell towers; and number two was to allow anyone with a gun permit to be able to carry a gun in a public park.

#### PUBLIC COMMENT PERIOD:

There were no public comments.

**ADJOURN:**

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to adjourn.

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Jondeen D. Terry  
City Clerk